

# HOUSE . . . . . No. 2340

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By Mr. Linsky of Natick, petition of David Paul Linsky and others for legislation to require gun dealers to deliver identifying projectiles and shell casings from firearms sold in the Commonwealth to the Criminal History Systems Board. Public Safety and Homeland Security.

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## The Commonwealth of Massachusetts

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### PETITION OF:

David Paul Linsky	Alice Hanlon Peisch
Mark C. Montigny	Gloria L. Fox
Michael E. Festa	Denise Provost
Tom Sannicandro	Steven A. Baddour
Matthew C. Patrick	Cynthia S. Creem
J. James Marzilli, Jr.	Antonio F. D. Cabral
Ruth B. Balser	Karen E. Spilka
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In the Year Two Thousand and Seven.

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### AN ACT TO IMPROVE THE TRACING OF GUNS USED IN CRIMES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 121 of Chapter 140 of the General Laws, as  
2 appearing in the 2000 Official Edition, is hereby amended by  
3 inserting after paragraph 12 the following:—

4 (a) “Projectile” means that part of ammunition that is, by means  
5 of an explosion, expelled through the barrel of the gun.

6 (b) “Shell casing” means that part of ammunition that contains the  
7 primer and propellant powder to discharge the projectile.

1 SECTION 2. Section 123 of Chapter 140 of the General Laws, as  
2 so appearing, is hereby amended by inserting after clause Twenty-  
3 first the following clause in line 230:—

4 Twenty-second, that on or after January 1, 2009, a licensee shall,  
5 within ten days of delivering to a person a firearm or rifle that is  
6 received by the licensee on or after such date, forward to the

7 Massachusetts State Police, for transactions of guns within Massa-  
8 chusetts but outside of the Boston city limits, a sealed container  
9 enclosing the projectile and shell casing from such firearm or rifle as  
10 required by Section 131Q either (a) as received from the manufac-  
11 turer or (b) obtained through participation in the program operated  
12 by the department of state police in accordance with subsection three  
13 of Section 131Q together with all reports required by section one  
14 hundred and twenty three of this chapter. For transactions of guns  
15 within the city limits of Boston the same requisite information and  
16 materials shall be sent to the Boston Police Department.

1 SECTION 3. Chapter 140 of the General Laws, as so appearing,  
2 is hereby amended by inserting after Section 131P the following  
3 section:—

4 Section 131Q. (1) On or after January 1, 2009, any manufacturer  
5 or wholesaler of firearms or rifles that ships, transports or delivers a  
6 firearm or rifle to any person in the Commonwealth shall, in accor-  
7 dance with rules and regulations promulgated by the executive office  
8 of public safety, include in the container with such firearm or rifle a  
9 separate sealed container that encloses:—

10 (a) a projectile discharged from such firearm or rifle;  
11 (b) a shell casing of a bullet or projectile discharged from such  
12 firearm or rifle; and

13 (c) any additional information that identifies such firearm or rifle,  
14 projectile and shell casing as required by such rules and regulations.

15 (2) A gunsmith or dealer in firearms licensed under Section 122  
16 shall, within ten days of the receipt of any firearm or rifle from a  
17 manufacturer that fails to comply with the provisions of this section,  
18 either:—

19 (a) return such firearm or rifle to such manufacturer or whole-  
20 saler, or

21 (b) notify the department of state police of such noncompliance  
22 and thereafter obtain a substitute sealed container through participa-  
23 tion in a program operated by the department as provided in subsec-  
24 tion three of this section.

25 (3) The executive office of public safety shall, no later than  
26 October 1, 2008, promulgate rules and regulations for the operation  
27 of a program that provides a gunsmith or dealer in firearms licensed  
28 under Section 122 with a sealed container enclosing the items speci-

29 fied in subsection two of this section. The program shall, at a min-  
30 imum:—

31 (a) be operational by January 1, 2009;  
32 (b) operate in at least three regional locations within the state; and  
33 (c) specify procedures by which such gunsmith or dealer in  
34 firearms is to deliver a firearm or rifle to the regional program  
35 located closest to his or her place of business for testing and prompt  
36 return of such firearm or rifle.

37 (4) Upon receipt of a projectile and sealed container as required  
38 by clause twenty-second of Section 123, the State Police or Boston  
39 Police Department shall cause to be entered in an automated elec-  
40 tronic databank pertinent data and other ballistic information rele-  
41 vant to the identification of the projectile and shell casing and to the  
42 firearm or rifle from which they were discharged. The automated  
43 electronic databank shall be operated and maintained by the State  
44 Police, in accordance with rules and regulations issued by the execu-  
45 tive office of public safety adopted after consultation with the Fed-  
46 eral Bureau of Investigation and the United State Department of  
47 Treasury, Bureau of Alcohol, Tobacco and Firearms to ensure com-  
48 patibility with national ballistic technology.

49 (5) Any person, firm, or corporation who knowingly violates any  
50 of the provisions of this section shall be punished, in the case of a  
51 rifle or firearm that is not a large capacity weapon, by a fine of not  
52 less than \$500 and not more than \$5000, or by imprisonment for not  
53 more than one year, or by both such fine and imprisonment. Any  
54 person, firm, or corporation who knowingly violates any of the pro-  
55 visions of this section shall be punished, in the case of a rifle or  
56 firearm that is a large capacity weapon, by a fine of not less than  
57 \$1000 and not more than \$10,000, or by imprisonment for not more  
58 than one year, or by both such fine and imprisonment. Any person,  
59 firm, or corporation who knowingly violates any of the provisions of  
60 this section after having been previously convicted of a violation of  
61 this section shall be punished, in the case of a rifle or firearm that is  
62 not a large capacity weapon, by a fine of not less than \$1000 and not  
63 more than \$10,000, or by imprisonment for not less than one year  
64 and not more than ten years, or by both such fine and imprisonment.  
65 Any person, firm, or corporation who knowingly violates any of the  
66 provisions of this section after having been previously convicted of a  
67 violation of this section shall be punished, in the case of a rifle or

68 firearm that is a large capacity weapon, by a fine of not less than  
69 \$5000 and not more than \$10,000, or by imprisonment for not less  
70 than two and one half years and not more than ten years, or by both  
71 such fine and imprisonment. The sentence imposed upon such  
72 person shall not be reduced to less than one year for a second or sub-  
73 sequent offense if the weapon is not a large capacity weapon, nor  
74 less than two and one half years for a second or subsequent such  
75 offense if the weapon is a large capacity weapon, nor suspended, nor  
76 shall any person convicted under this subsection be eligible for pro-  
77 bation, parole, furlough, work release or receive any deduction from  
78 his sentence for good conduct until he shall have served such min-  
79 imum term of such sentence; provided, however, that the commis-  
80 sioner of correction may, on the recommendation of the warden,  
81 superintendent or other person in charge of a correctional institution  
82 or the administrator of a county correctional institution, grant to such  
83 offender a temporary release in the custody of an officer of such  
84 institution for the following purposes only:— (i) to attend the  
85 funeral of a spouse or next of kin; (ii) to visit a critically ill close  
86 relative or spouse; or (iii) to obtain emergency medical services  
87 unavailable at such institution. Prosecutions commenced under this  
88 subsection shall neither be continued without a finding nor placed on  
89 file. The provisions of Section 87 of Chapter 276 relative to the  
90 power of the court to place certain offenders on probation shall not  
91 apply to any person 17 years of age or over charged with a violation  
92 of this subsection.